

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI
SPRINGFIELD DIVISION**

Everett Levi Purvis, and)
Christina Mae Purvis,) Case No.: 18-61081-can7
)
Debtors,)
) Chapter 7
USAA FEDERAL SAVINGS BANK,)
its successors and/or assignees,)
)
Movant,)
)
Everett Levi Purvis, and)
Christina Mae Purvis, and)
Fred Charles Moon, Chapter 7 Trustee,)
)
Respondents.)

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW Movant, USAA FEDERAL SAVINGS BANK, its successors and/or assigns (“Movant”), and states as follows in support of its Motion for Relief from the Automatic Stay:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334 and 11 U.S.C. § 362 and Bankruptcy Rules 4001(a) and 9014.
2. On September 27, 2018, Everett Levi Purvis and Christina Mae Purvis (“Debtors”) filed for protection in the Bankruptcy Court for the Western District of Missouri, under Chapter 7 of the Bankruptcy Code, being bankruptcy case number 18-61081-can7.
3. Fred Charles Moon is the appointed Chapter 7 Trustee.
4. Debtors are the owners of real estate located at 4623 South 149th Road, Bolivar, Missouri 65613 (“the Property”). The Property is legally described as follows:

A tract of land situated in the Northeast Quarter of the Northeast Quarter of Section 20, Township 33 North, Range 22 West, of the Fifth Principal Meridian, Polk County, Missouri, more particularly described as follows:

Commencing at an existing iron pin at the Southeast Corner of said Northeast Quarter of the Northeast Quarter; thence North 89 degrees 32 minutes 57 seconds West along the South line of said Northeast Quarter of the Northeast Quarter, a distance of 728.02 feet; thence North 00 degrees 00 minutes 00 seconds East, 214.82 feet to the point of beginning of the tract herein described; thence North 89 degrees 32 minutes 57 seconds West, 605.18 feet to the West line of said Northeast Quarter of the Northeast Quarter; thence North 00 degrees 20 minutes 04 seconds East along said West line, 215.26 feet; thence South 89 degrees 32 minutes 57 seconds East, 603.93 feet; thence South 00 degrees 00 minutes 00 seconds West, 215.27 feet to the point of beginning. Subject to all rights of way and easements of record.

Subject to and together with an Ingress / Egress Easement described as: A tract of land situated in the Northeast Quarter of the Northeast Quarter of Section 20, Township 33 North, Range 22 West of the Fifth Principal Meridian, Polk County, Missouri, more Particularly described as follows:

Commencing at an existing iron pin at the Southeast Corner of said Northeast Quarter of the Northeast Quarter; thence North 89 degrees 32 minutes 57 seconds West along the South line of said Northeast Quarter of the Northeast Quarter, a distance of 703.02 feet to the point of beginning of the Tract herein described; thence North 89 degrees 32 minutes 57 seconds West along said South line, 50.00 feet; thence North 00 degrees 00 minutes 00 seconds East, 886.46 feet, thence along a non-tangent curve to the right having a chord bearing of North 90 degrees 00 minutes 00 seconds East and a radius of 75.00 feet, an arc distance of 420.26 feet; thence South 00 degrees 00 minutes 00 seconds West 886.85 feet to the point of beginning.

Subject to all rights of way and easements of record.

5. Movant is the holder, or legal agent of the holder, of a note and deed of trust executed by Debtors – encumbering the Property. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

6. In their Schedule A/B, Debtors state the estimated current market value of their interest in the Property is approximately \$215,000.00.

7. According to Debtors' Statement of Intention, the Property is to be surrendered.

8. As of October 1, 2018 the minimum outstanding obligation is:

Principal Balance	\$190,679.29
Interest	\$3,178.00
Recoverable Fees	\$45.00
Less Suspense	\$0.00
Total	\$193,902.29

9. The **principal balance on the promissory note** is approximately \$190,679.29, plus interest at the rate of 4%; and, Debtors have **failed to make payments** due on the promissory note; and, such payments are owing and delinquent from June 1, 2018 to October 1, 2018 as set forth below:

5 Regular monthly payments at \$1,184.33 each:	\$5,921.65
Attorney fees and costs for this Motion	\$781.00
Property Preservation Fee	\$0.00
Property Inspection Fee	\$0.00
Non-Sufficient Funds Fee	\$0.00
Appraisal Fee	\$0.00
Accrued Late Charges	\$0.00
Less Suspense	\$0.00
Total	\$6,702.65

Furthermore, additional payments will become due according to the terms of the note.

10. The recoverable market value of the Property does not exceed the indebtedness to Movant together with other liens, if any, against the Property.

11. Movant does not have, and has not been offered, adequate protection for its security interest in the Property. Absent an order, Movant's interest in the Property will be irreparably injured and harmed.

12. The Property is not of sufficient value over and above the deed of trust indebtedness it secures plus the homestead exemption, if any, to be of any benefit for the estate.

WHEREFORE, Movant respectfully requests that the Bankruptcy Court enter its Order: granting this Motion for Relief from the Automatic Stay; and, terminating the automatic stay pursuant to 11 U.S.C. Section 362(d) as to the Property and Movant; and, waiving the fourteen (14) day stay imposed by FRBP 4001(a)(3); and, permitting Movant to take such actions with respect to the Property as are set forth under applicable non-bankruptcy law (i.e. modifications,

deed in lieu, short sales, and other loss mitigation options); and, permitting Movant to proceed with foreclosure of its note and deed of trust pursuant to the laws of the State of Missouri; and, ordering that the Chapter 7 Trustee abandoned all interest in the Property; and, for such other and further relief as this Court may deem just and proper.

SHAPIRO & KREISMAN, LLC

By: /s/Zachary G. Edwards
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Attorneys for Movant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically on October 16, 2018, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List.

Attorney for Debtors:

Byron K. Shive
Byron K. Shive, Attorney-At-Law, LLC
P.O. Box 777
Bolivar, MO 65613

Chapter 7 Trustee:

Fred Charles Moon
1441 East Primrose Street
Springfield, MO 65804

Office of the US Trustee:

Charles Evans Whittaker Courthouse
400 E. 9th Street
Room 3440
Kansas City, MO 64106

I hereby certify that a true and correct copy of the foregoing document was filed electronically on October 16, 2018, with the United States Bankruptcy Court, and has been served by Regular United States Mail Service, first class, postage fully pre-paid, to the parties listed below on October 16, 2018.

Debtor:

Everett Levi Purvis
840 South Robberson Avenue
Apt. B-110-A
Springfield, MO 65806

Christina Mae Purvis
840 South Robberson Avenue
Apt. B-110-A
Springfield, MO 65806

/s/Zachary G. Edwards
Zachary G. Edwards #63798
Adam S. Kerekanich #68602

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI
SPRINGFIELD DIVISION**

Everett Levi Purvis, and)
Christina Mae Purvis,) Case No.: 18-61081-can7
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Debtors.) Chapter 7
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SUMMARY OF EXHIBITS

The following exhibits, in reference to the Motion of USAA FEDERAL SAVINGS BANK, were electronically mailed on October 16, 2018:

1. Deed of Trust executed on June 02, 2017, by Everett Purvis and Christina Purvis, husband and wife in the amount of \$194,000.00, and recorded on June 6, 2017, in Book 2017L at Page 2180;
2. Assignment of Deed of Trust;
2. Note executed June 02, 2017, in the original amount of \$194,000.00;

SHAPIRO & KREISMAN, LLC

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